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**THE SENATE
STATE OF MICHIGAN**

MEMORANDUM

COMMITTEES:

APPROPRIATIONS

SUBCOMMITTEES:

HIGHER EDUCATION – C

COMMUNITY COLLEGES – VC

JUDICIARY – VC

CAPITAL OUTLAY

JUDICIARY – VC

ENERGY AND TECHNOLOGY

TO: House Judiciary Committee Members

FROM: Senator Tonya Schuitmaker

RE: House Bill 4980 and Senate Bills 176 and 357

DATE: October 27, 2015

Background: Michigan law requires the use of Breath Alcohol Ignition Interlock Devices (BAIID) upon the conviction of certain alcohol related crimes. The Michigan Department of State is the agency responsible for monitoring compliance with this requirement.

Upon conviction, an individual can choose from the Department's list of six manufacturers in the state for installation. They can see which are available in their area, compare prices, and schedule the installation. Many manufacturers even cover the cost of towing a vehicle to a facility for the device to be installed for customer convenience.

Note: Sobriety courts require specific technology be used for drivers with restricted licenses, namely photo capable BAIIDs. These devices take a photo at the time a breath sample is collected as evidence that the driver with the restricted license is providing the sample.

Issue/Problem: Our current laws lack a clear framework for MDOS to resolve problems arising from manufacturer compliance, device malfunction, and complaints from motorists.

When problems involving a manufacturer occur, MDOS requests a compliance meeting with the manufacturer. While they offer to address concerns raised by the Department, there is seldom a long term solution achieved. This is due to the Department's inability to sanction the manufacturer. Under current law, MDOS can only decertify a manufacturer if they are found to violate the law.

Installations are not regulated or monitored. A manufacturer may refer a driver to an installer on Craig's List who has no mechanical or technical expertise. These mobile installations often take place in a fast food restaurant parking lot, where the installer may offer advice on how to "beat the system" for an extra \$50.

MDOS is inundated with complaints from motorists regarding improper installation, damage

to vehicles, and resulting dangerous situations. Sadly, these motorists are left without a place to return to in order to have the device fixed or the vehicle repaired and in compliance with their restricted license.

As mentioned, sobriety courts mandate that BAIIDs have photo capable technology. Without this as a standard implemented across the state, some motorists are “beating the system” by having a passenger, including a child or minor, provide a breath sample during vehicle start and rolling retests.

Legislation: HB 4980 and SBs 176 and 357 authorize MDOS to suspend manufacturers for the most egregious violations and provide periods for manufacturers to resolve issues before action is taken by the Department.

The package also ensures that installations are done by a technician who has received training from the manufacturer and is licensed by the state to install BAIIDs. Under this legislation, installations will occur in a licensed repair facility that is routinely inspected by MDOS. With respect to manufacturers whose devices are installed in non-licensed repair shops, such as automotive electronic shops, they will be “grandfathered” and allowed to continue installing and servicing the devices as long as they are performed by a BAIID certified mechanic. This important provision will ensure that the installer understands how the device interacts with the vehicle and has the knowledge and skills to address any mechanical malfunctions that may result from an improper installation.

This legislation was passed unanimously by the Senate last year. The language introduced this year, is the result of long negotiations with MDOS and the Coalition of Ignition Interlock Manufacturers. Both MDOS and the Coalition are supportive of the compromise.

Myths:

1. This legislation will only allow large manufacturers to compete for business.
 - a. *FALSE.* This legislation ensures that BAIID technology is in compliance with National Highway Traffic Safety Administration standards – photo capable BAIIDs.
2. Mobile BAIID installers will be put out of work if this legislation goes into effect.
 - a. *FALSE.* Installers would need to complete certification with MDOS to become a certified installer. They could continue their work in a licensed repair facility.
3. Not all manufacturers can comply with upgrades in technology due to high financial costs.
 - a. *FALSE.* Photo capable devices are the standard across the country and part of the NHTSA standards. In Michigan, they are currently required by sobriety courts for drivers to be in compliance with their sentence.
4. All BAIIDs ensure that it is only the driver providing the breath sample.
 - a. *FALSE.* While some devices require a series of breath samples in a sequence, there is evidence that some drivers have used passengers, including minor children, to provide the sample in order to start a vehicle or comply with a rolling retest. Without a photo capable device, there is no sure way to prove a sample was indeed provided by the driver with the restricted license.

Bills to ensure integrity of drunk-driving control devices are on the right track

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OCT 13, 2015

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One of those tools is the Breathalyzer that police officers use to test the blood-alcohol level of a driver they suspect to be drunk or impaired. Using that same tool from even allowing a drunk to start his car or truck is an even better idea, right?

Maybe.

As it stands, Michigan judges can mandate that some drivers — mainly those convicted of alcohol-related crimes — have a breath alcohol interlock ignition device (BAIID) installed on their vehicle(s) as a condition for keeping their driving privileges. The device is designed to prevent the vehicle from being started if it indicates the driver is impaired.

But are they being made to certain standards and being installed by trained, licensed professionals? In other words, is the integrity there that doesn't compromise the intent of keeping drunks off the roads?

More than 8,000 of these devices have been installed in the cars and trucks of Michigan drivers in the past three years, according to state Sen. Tonya Schuitmaker, R-Lawton.

Schuitmaker, whose Senate district is in the Kalamazoo area, has introduced a package of bills in the Senate that she says would create oversight and accountability for the manufacturers of breath alcohol interlock ignition devices.

"Without a certification process for manufacturers and those who install and service the devices, our current program lacks integrity," Schuitmaker said. "Someone you can find on Craigslist may be on the list of installers that a manufacturer uses. These installers, who may not have any technical or mechanical expertise, will meet drivers in a fast-food restaurant parking lot to install the device, and offer advice on how to get around the system for a few extra bucks."

However, without a proper license process, Schuitmaker says there is no way to sanction shifty installers.

What the senator is calling for is to require an annual certification from the state for the manufacturers, an increase in the requirements for servicing the devices and to establish certification requirements for the installers.

We would take it a step further by having the state make sure that the court-ordered devices are installed by a licensed (and often inspected) shop, and not by someone operating out of his garage or van.

What we also don't want to see is auto manufacturers installing them in their vehicles on the assembly line. That jacks up the price of vehicles for something that most of us may never be required to have.

Schuitmaker's proposed legislation — Senate bills 175, 176 and 357 — were voted out of committee last week and are now up for consideration in the full Senate. We urge our state senator, Arlan Meekhof, R-West Olive, and the rest of the Senate to get them approved and on the governor's desk as soon as possible.

Our Views reflects the majority opinion of the members of the Grand Haven Tribune editorial board: Kevin Hook, Matt DeYoung, Alex Doty and Mark Brooky. What do you think? E-mail us a letter to the editor to news@grandhaventribune.com or log-in to our website and leave a comment below.